

**REMARKS**

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1-13, 15, and 16 are all the claims currently pending in the application.

As a preliminary matter, Applicant notes that, although the Examiner indicates that claims 1-13, 15, and 16 are allowable (pending the non-statutory obviousness-type double patenting rejection), the Examiner also indicates in the Office Action Summary that claim 6 is rejected. Applicant conducted a brief telephone interview with the Examiner on April 11, 2011 to clarify this discrepancy, and the Examiner indicated that this is a typographical error, and claim 6 is **not** rejected.

Claim 1 remains rejected on the ground of non-statutory obviousness-type double patenting as allegedly being unpatentable over claims 1 and 4 of U.S. Patent No. 7,483,523. Claims 1-13, 15, and 16 are indicated to be allowable pending a resolution of the non-statutory obviousness-type double patenting rejection.

Without conceding to the merits of the Examiner's rejections, Applicant files herewith a Terminal Disclaimer, thereby rendering the above rejections moot.

The submission of the Terminal Disclaimer is not intended as an admission that claims 1 and 4 of U.S. Patent No. 7,483,523 applied by the Examiner are substantively sufficient to support the Examiner's rejection. Applicant does not waive any right to take alternative action in the future and notes that the filing of the present Terminal Disclaimer does not constitute an admission that the rejected claims would have been obvious over respective claims in the cited patent. As emphasized in Quad Environmental Technologies Corp. v. Union Sanitary District, 20 USPQ2D 1392, 1394 (Fed. Cir. 1991), "the filing of a terminal disclaimer simply serves the statutory function of

**AMENDMENT UNDER 37 C.F.R. § 1.111**  
U.S. Appln. No.: 10/766,842

Attorney Docket No.: Q79655

removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection.”

Therefore, Applicant respectfully requests that the above double patenting rejections be reconsidered and withdrawn.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Mark E. Wallerson/  
Mark E. Wallerson  
Registration No. 59,043

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Date: May 6, 2011